

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department - Revision Petition filed by Sri T.Srinivas @Ashok S/o Somaiah and one another R/o Mangalvaripet, Khanapur Mandal, Warangal District against the Orders dated 24.06.2006 in Case No.A/26/2006 Additional Agent to Government, Eturunagaram - Rejected - Orders - Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 13

Dated: 18-01-2019,
Read the following:-

- 1) Orders of the Additional Agent to Government, Eturunagaram, Warangal District in Case No. A/26/2006, dt 24.06.2006.
- 2) Revision Petition filed by Sri T.Srinivas @Ashok S/o Somaiah and one another R/o Mangalvaripet, Khanapur Mandal, Warangal District, Dt:18.07.2006.
- 3) Govt.Memo.No .9989/LTR.2/2006, dt 28.08.2006.
- 4) From the Additional Agent to Govt., Eturunagaram, Warangal District Lr.Rc.No.A2/26/2006,dt 15.10.2007.
- 5) Govt.Memo & Letter.No.9989/LTR-2/2006, Dt:18.03.2008, 17.06.2008, 19.07.2008,08.09.2008,11.09.2008,22.12.2008,27.01.2015, 26.07.2016 27.10.2016,11.01.2017,06.03.2017,13.04.2017,30.05.2017, 03.08.2017, 17.10.2017,12.12.2017,03.01.2018.
- 6) Written Arguments filed by the Petitioner dt:12.02.2018.

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ORDER

In the reference 2nd read above, Sri T.Srinivas @Ashok S/o Somaiah and one another R/o Mangalvaripet, Khanapur Mandal, Warangal District filed Revision Petition through their Counsel before the Government aggrieved by the orders of the Additional Agent to Government, Eturunagaram, Warangal District in Case No.A/26/2006, dt 24.06.2006 in Sy.No.22/19 in respect of land to an extent of 1-00 Acres situated at Mangalavaripet Village, Khanapur Mandal, Warangal District.

2. In the reference 3rd read above, Government have granted Stay and the Collector, Warangal and the Project Officer & Additional Agent to Government, Warangal District were requested to furnish Para Wise Remarks and connected case records and in the reference 4th read above the Additional Agent to Government, Eturunagaram, Warangal District has furnished Para Wise Remarks and connected case records.

3. The Main grounds of the Revision Petitioners are as follows:

- The orders passed by the both the Courts below are bad in law and contrary to the material on record.
- The order passed by the Lower Appellate Court is liable to be set aside on the ground of violation of principles of natural justice, as no reasons were assigned in dismissing the Appeal.
- The Lower Appellate Court failed to appreciate the grounds raised in the Appeal. The Lower Appellate Court did not decide the case on its merits and no reasons of whatsoever nature were assigned in dismissing the Appeal.
- The Court below ought to have seen that the petitioner has raised specific grounds in the Grounds of appeal stating inter-alia that the provisions of Regulation 1 of 1959 has no application since there is no transfer of immovable property in favour of non tribal at any point of time. There is no violation nor contravention of any provisions of Regulation 1 of 1959 as amended 1 of 1970.
- Both the courts erred in appreciating the material on record and also failed to appreciate the contentions/grounds raised by the petitioner and erroneously passed the ejectment order.

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- The Court below ought to have seen that the 2nd petitioner (S.K.Saidulu S/o Rasheed) is the owner bearing Sy.No.22/19 to an extent of Ac. 1.00 situated at R/o Mangalvaripet, Khanapur Mandal, Warangal District where the 2nd Petitioner in association with the 1st Petitioner (T.Srinivas @ Ashok S/o Somaiah,) constructed a Rice Mill locally known as M/s Raghavendra Industries (Rice Mill) by obtaining permission from the Gram Panchayat, Mangalvaripeta and also other competent authorities viz., Industries Department, Director of Factories. The petitioners also obtained electricity connection. The petitioners formed a partnership and carrying on business in the name and Style of M/s Raghavendra Industries (Rice Mill). There is no transfer of immovable property in favour of non tribal. Since there is no violation of provisions of Regulation 1 of 1959 as amended 1 of 1970, the proceedings initiated by the Court below are liable to be set aside.
- The Courts below ought to have seen that there is no material on record to make out a case that there was a transfer of land from tribal/non-tribal to another non-tribal to attract the provisions of regulation one of 1959. No document is filed nor marked during the enquiry to presume that there was a transfer of land from one person to another person. The transfer means transfer of title with possession in respect of immovable property from one person to another in accordance with the procedure established by law in the instant case no such transfer of land has been established. Thus it is clear from the facts that there is no violation of provisions of Regulation 1 of 1959 as amended 1 of 1970.
- The Courts below ought to have seen that the 2nd petitioner (S.K.Saidulu S/o Rasheed) is a owner of the land covered by SY.No.22/19 to an extent of Ac. 1.00 situated at R/o Mangalvaripet, Khanpur Mandal, Warangal District, the 2nd petitioner in association with the 1st petitioner(T.Srinivas @Ashok S/o Somaiah) constructed the rice mill in the aforesaid land. There is no complain from the owner of the land i.e., 2nd petitioner stating that the 1st petitioner violated the provisions of Regulation 1 of 1959 as amended 1 of 1970. The construction of a rice mill in schedule area does not constitute contravention of the provisions of Regulation 1 of 1959 as amended 1 of 1970.

4 The remarks of the Project Officer, ITDA, Eturunagaram and the Additional Agent to Government, Warangal District on the Revision Petition are as follows:

- The allegations of the petitioners are false and not comes under the purview of Law. The lower court and the appellant court has very keenly observed the facts and circumstances o the case and disposed the case as per the law.
- There is no violation Principles of Natural Justice in disposing of the case. The authority under the regulation 1 of 1959 has ample power to order for eviction of non-tribal association organization which were in violation of the provision sec.3(1) of the 1 of 1959, as amended by the regulation 1 of 1970.
- The burden of proof lies on the petitioners to show that there was no violation or in contravention of the regulation 1 of 1959 as amended by regulation of 1970 while submitting all relevant documents. Further they have not, shown that the 1st petitioner-(non-tribal) (T.Srinivas @Ashok S/o Somaiah) has how possessed a right to associate with the 2nd non-tribal (petitioner) (S.K.Saidulu S/o Rasheed) and also formed the association of partnership association with the name and style of juristic person (M/s Raghavendra Industries and Rice Mill, situated at Mangalvaripet (V) of Khanpur Mandal which was not registered under the Andhra Pradesh Co-operative societies Act, 1964.
- The petitioner has not filed any single document to show that, how they are entitled to transfer of the land in the name of the “(M/s Raghavendra Industries and Rice Mill” which is a non-tribal association. The 1st petitioner has no right under the Law to associate with petitioner No.2(non-tribal), except the tribal association which was registered under the APCS Act, 1964.

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- The Lower court has well appreciated the matter in its evidence of record and judgement. The petitioner No.2 has not filed any related documents to show that the land was not transferred in the name of association and (M/s Raghavendra Industries and Rice Mil). The appellant court also has disposed off the matter giving its reasons in the judgement upholding the orders of the Lower Court.
- The 2nd petitioner being, the owner of the land bearing S.No.22/19 to an extent of Ac.1.00 guntas of Mangalvaripet (V) Khanapur Mandal, he is found right to construct the Rice Mill as on Sole trader. But the 2nd petitioner allowed the 1st petitioner to construct the Rice Mill, that means, there is benami transfer of the land in favour of the 1st petitioner by the 2nd petitioner which is in violation of the sec.(4) of the APSALTR of 1959.
- The 1st and 2nd petitioners are again formed to an association where in the entire immovable property has shown in the name of (M/s Raghavendra Industries and Rice Mill, (a non-tribal association), which is in contravention of the provision sec.(3) of APSALTR 1 of 1959 and also sub-sec. (4) of sec.3 where by transfer has been defined to include benami transactions.
- As the primary transaction is null and void, earlier the petitioner stated that they formed in to partnership which was not registered under the AP Co-operative societies Act 1964, more over the body members are non-tribals. The partnership Act is applicable in scheduled areas between the tribals only.
- The burden of proof lies on the petitioner to show there was no transfer of the land and also in the name of the association. As submitted by the petitioner that formed a partnership, and carrying on business in the name and style of M/s Srinivas Binny Rice Mill. According to **Sec.2(g)** of APSALTR 1 of 1959 as amended 1 of 1970 defines **Transfer** as “mortgage with for without possession lease, sale gift, exchange of any other dealing with immovable property, not being a testament any disposition and include a charge on such property or a contract relating is such mortgage, lease, sale gift exchange or the other dealing”.
- Therefore the expressions “dealing with immovable property” implies and included formation of partnership if such partnership/association formed for carrying business and enjoying the benefits raised from such immovable property, is allowed the very object of regulation and spirit enshrined is the constitution would be defeated.
- The Supreme Court in P.Ramireddy Vs State of AP AIR 1988 Sc.1621 regarding the intention and object behind the registration which are as follows.

“It was observe by several committees that the non tribals were able to find way and means to circumvent the provision of regulations 1 of 1959 by entering of in to benami transactions and other clandestine to acute conditions for peace and maintain peace and prevent the new non-tribals form setting down in the scheduled areas. If the alienations are permitted to the non-tribals there is a danger of large scale explanation by the new non tribals again with the result, the peace will be disturbed in that area.

Under new entrants in to the scheduled areas are prevented from setting down in the scheduled areas by the purchasing to present the exploration of the unsophisticated tribals, it is only with a view to enforce the valid regulation 1 of 1955, the regulation viz, regulation 1 of 1970 was made. It is the interests of the tribals and for their protection regulation 1 of 1970 was passed, because without restricting or prohibiting the orientation of lands in the possession of non-tribals the objecting cannot be achieved.

True transfer by non-tribals to non tribals would not diminish the pool it would maintain status quo. But is it sufficient or fair enough to freeze the exploitative deprivation on the tribals and thereby legalize and perpetuate the past wrong intead of affecting the same. As a matter of fact it would be unjust, unfair and

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highly unreasonable merely to freeze the situation instead of revoking the injustice and restoring the status quo ante. The sec.3(1) and sec.(4) of the regulations confirm the ample powers to evict the non-tribal associations (Jurist person). As per the Supreme Court proceedings Samatha V/s State of AP., defined the meaning very clear. The AP. 1981 (1) AIR 1982 AP(EB) stated that the regulation 1/70 or 1/1963 came into force any transfer of property made in contravention of the regulation 1/1959 is null and void. Therefore, the petitioner found no cause under the Law and liable to be evicted.

- The petitioner No.2 (S.K.Saidulu S/o Rasheed) if transferred the property to (M/s Raghavendra Industries Rice Mill Mangalavaripet (V) Khanapur (M), in association of partnership with the petitioner No.1 (T.Srinivas @Ashok S/o Somaiah) there will be violation of provision of regulation 1 of 1959 as amended by the regulation 1 of 1970, hence the revision petition is liable for dismissal.

5. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Additional Agent to Government, observed that:

- Perused the entire case records, wherein orders passed by the Lower Court, the appellate authority and also the grounds urged by the Petitioner in the revision petition and did not see any valid (or) substantiating grounds in the revision petition.
- Further the 2nd Revision Petitioner is the owner of the land, where as the Rice Mill was constructed by the 1st Revision Petitioner. It is clear cut case of land transfer against the act of the soil.

6. Government therefore after careful examination of the matter hereby rejects the Revision Petition filed by Sri T.Srinivas @Ashok S/o Somaiah and one another R/o Mangalavaripet, Khanapur Mandal, Warangal District through their Counsel before the Government and upholds the orders of the appellate authority i.e. the Additional Agent to Government, Eturunagaram, Warangal District in Case No.A/26/2006, dt 24.06.2006 in Sy.No.22/19 to an extent of 1-00 Acres situated at Mangalavaripet Village, Khanapur Mandal, Warangal District.

7. The Additional Agent to Government and Project Officer, ITDA, Eturunagaram, erstwhile Warangal District shall take necessary further action accordingly. The original case records received in the reference 4th read above are returned herewith.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

BENHUR MAHESH DUTT EKKA,
SECRETARY TO GOVERNMENT

To

1) Sri T.Srinivas @ Ashok S/o Somaiah
R/o Mangalavaripet, Khanapur Mandal,
Warangal District.

2) Sri S.K.Sidulu S/o Rasheed
R/o Mangalavaripet, Khanapur Mandal,
Warangal District.

The Project Officer, ITDA and Additional Agent to Government,
Eturunagaram, Warangal District (w.e.)

Copy to :

The District Collector, Warangal District for information.

The Special Deputy Collector (TW), Eturunagaram Village and Mandal,
Warangal District for information.

The Mandal Revenue Officer,
Khanapur Mandal, Warangal District.

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The Government for Social Welfare, High Court Buildings, Hyderabad.
Sri A.Prabhakar Rao, & M.Durga Prasad, Advocates,
Plot No.252 A, Opp:SBI, MLA Colony,
Road No.12, Banjara Hills, Hyderabad-34. Ph.No.9391048677.
P.S to M(TW)/P.S. to Secretary(TW)
SF/SC

// FORWARDED:: BY ORDER //

SECTION OFFICER